



General Assembly

Substitute Bill No. 1188

January Session, 2011

* ____SB01188GAE__033111____ *

AN ACT ESTABLISHING THE DIVISION OF ADMINISTRATIVE HEARINGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) There shall be
2 established a Division of Administrative Hearings within the
3 Department of Administrative Services, for administrative purposes
4 only. The Division of Administrative Hearings shall conduct impartial
5 hearings of contested cases in accordance with the provisions of
6 sections 2 to 9, inclusive, section 20 of this act and chapter 54 of the
7 general statutes. The Chief Administrative Law Adjudicator shall be
8 the chief executive officer of the Division of Administrative Hearings.

9 (b) For purposes of sections 2 to 9, inclusive, and section 20 of this
10 act, (1) "administrative law adjudicator" means a person whose
11 primary duties are to conduct hearings in contested cases and issue
12 final decisions or proposed final decisions and who is transferred to
13 the Division of Administrative Hearings pursuant to section 4 of this
14 act or appointed by the Chief Administrative Law Adjudicator
15 pursuant to chapter 67 of the general statutes; and (2) "Chief
16 Administrative Law Adjudicator" means the administrative law
17 adjudicator nominated by the Governor in accordance with section 2 of
18 this act to serve as Chief Administrative Law Adjudicator.

19 Sec. 2. (NEW) (*Effective October 1, 2011*) (a) On or after October 1,
20 2011, the Governor shall appoint the Chief Administrative Law
21 Adjudicator to serve a term expiring on March 1, 2012. Thereafter, the
22 Governor shall, with the advice and consent of both houses of the
23 General Assembly, nominate the Chief Administrative Law
24 Adjudicator, who shall serve a term of six years, or until a successor is
25 qualified. Any person nominated under this section shall have been
26 admitted to the practice of law in the state for at least ten years, shall
27 be knowledgeable on the subject of administrative law and shall be a
28 resident of the state.

29 (b) Each nomination made by the Governor to the General
30 Assembly for Chief Administrative Law Adjudicator shall be referred,
31 without debate, to the committee on the judiciary, which shall report
32 on such nomination not later than thirty legislative days after the time
33 of reference, but not later than seven legislative days before the
34 adjourning of the General Assembly.

35 (c) Each appointment of the Chief Administrative Law Adjudicator
36 shall be by concurrent resolution. The action on the passage of each
37 such resolution in the House of Representatives and in the Senate shall
38 be by vote taken on the electrical roll-call device. No resolution shall
39 contain the name of more than one nominee.

40 (d) The Governor shall, within five days after receiving notice that a
41 nomination made pursuant to this section has failed to be approved by
42 the affirmative concurrent action of both houses of the General
43 Assembly, make another nomination to such office.

44 (e) The Chief Administrative Law Adjudicator shall take an oath of
45 office in accordance with section 1-25 of the general statutes prior to
46 commencing his or her duties, shall perform such duties full time and
47 shall not engage in the private practice of law. The Chief
48 Administrative Law Adjudicator may be renominated following the
49 same process set forth in this section for initial nominations.

50 (f) The Governor may remove the Chief Administrative Law
51 Adjudicator during his or her term for good cause.

52 (g) Notwithstanding the provisions of section 4-19 of the general
53 statutes, no vacancy in the position of Chief Administrative Law
54 Adjudicator shall be filled by the Governor when the General
55 Assembly is not in session unless, prior to such filling, the Governor
56 submits the name of the proposed vacancy appointee to the committee
57 on the judiciary. Not later than forty-five days after such submission,
58 the committee on the judiciary may, upon the call of either chairman,
59 hold a special meeting for the purpose of approving or disapproving
60 such proposed vacancy appointee by majority vote. The Governor
61 shall not administer the oath of office to such proposed vacancy
62 appointee until the committee has approved such proposed vacancy
63 appointee. If the committee determines that it cannot act on such
64 proposed vacancy appointee within such forty-five-day period, it may
65 extend such period by an additional fifteen days. The committee shall
66 notify the Governor in writing of any such extension. Failure of the
67 committee to act on such proposed vacancy appointee within such
68 forty-five-day period or any fifteen-day extension period shall be
69 deemed to be an approval.

70 Sec. 3. (NEW) (*Effective October 1, 2011*) (a) The Chief Administrative
71 Law Adjudicator shall:

72 (1) Have all of the powers specifically granted in the general statutes
73 and any additional powers that are reasonable and necessary to enable
74 the Chief Administrative Law Adjudicator to carry out the duties of his
75 or her office, including, but not limited to, the powers set forth in
76 section 4-8 of the general statutes;

77 (2) Assign administrative law adjudicators in all cases referred to
78 the Division of Administrative Hearings, provided, in assigning an
79 administrative law adjudicator to a case, the Chief Administrative Law
80 Adjudicator shall, whenever practicable, assign an administrative law
81 adjudicator who has expertise in the legal issues or general subject

82 matter of the proceeding;

83 (3) Have all the powers and duties of an administrative law
84 adjudicator;

85 (4) Prepare an edited version of a proposed final decision and final
86 decision that shall not disclose protected information in any case
87 where any provision of the general statutes, federal law, state or
88 federal regulations, or an order of a court of competent jurisdiction
89 bars the disclosure of the identity of any person or party or bars the
90 disclosure of any other information;

91 (5) Collect, compile and prepare statistics and other data with
92 respect to the operations of the Division of Administrative Hearings
93 and, not later than January first of each year, submit to the Governor
94 and the General Assembly, in accordance with the provisions of
95 section 11-4a of the general statutes, a report on such operations,
96 including, but not limited to, the number of hearings initiated, the
97 number of proposed final decisions rendered, the number of partial or
98 total reversals of such decisions by the agencies, the number of final
99 decisions rendered and the number of proceedings pending;

100 (6) Study the subject of administrative adjudication in all its aspects
101 and develop recommendations to promote the goals of impartiality,
102 fairness, uniformity and cost-effectiveness in the administration and
103 conduct of hearings of contested cases;

104 (7) Develop a program for the continuing education of
105 administrative law adjudicators in procedural due process and in the
106 substantive law of the agencies that are subject to the provisions of
107 section 8 of this act and training for ancillary personnel and implement
108 such program; and

109 (8) Index, by name and subject, all written orders and final decisions
110 and make all indices, proposed final decisions and final decisions
111 available for public inspection, and copying electronically and to the
112 extent required by the Freedom of Information Act, as defined in

113 section 1-200 of the general statutes.

114 (b) The Chief Administrative Law Adjudicator shall be exempt from
115 the classified service.

116 (c) The Chief Administrative Law Adjudicator, administrative law
117 adjudicators, assistants and other employees of the Division of
118 Administrative Hearings shall be entitled to the fringe benefits
119 applicable to other state employees, shall be included under the
120 provisions of chapters 65 and 66 of the general statutes regarding
121 disability and retirement of state employees, and shall receive full
122 retirement credit for each year or portion thereof for which retirement
123 benefits are paid for service as such Chief Administrative Law
124 Adjudicator, administrative law adjudicator, assistant or other
125 employee.

126 (d) The Chief Administrative Law Adjudicator shall adopt
127 regulations in accordance with the provisions of chapter 54, to carry
128 out the provisions of section 1 to 9, inclusive, and section 20 of this act,
129 and sections 4-176e to 4-181a of the general statutes, as amended by
130 this act. Such regulations, with respect to contested cases heard by the
131 Division of Administrative Hearings, shall supersede any inconsistent
132 agency regulations, policies or procedures, including, but not limited
133 to, provisions related to time limits for agency action in contested
134 cases, notices of hearings, the scheduling of hearings and the
135 assignment of administrative law adjudicators except the regulations
136 may not supersede any provisions of agency regulations mandated by
137 the general statutes or federal law.

138 Sec. 4. (NEW) (*Effective October 1, 2011*) (a) Notwithstanding any
139 provision of the general statutes, each full-time employee or
140 permanent part-time employee of an agency subject to the provisions
141 of section 8 of this act whose primary duties (1) are to conduct hearings
142 in contested cases and issue final decisions or proposed final decisions,
143 or (2) relate to providing administrative services required for
144 conducting such hearings and issuing such decisions, shall be

145 transferred to the Division of Administrative Hearings, in accordance
146 with the provisions of this section and sections 4-38d, 4-38e and 4-39 of
147 the general statutes.

148 (b) Persons transferred to the Division of Administrative Hearings
149 pursuant to this section and persons appointed by the Chief
150 Administrative Law Adjudicator pursuant to chapter 67 of the general
151 statutes shall be in the classified service, represented by the collective
152 bargaining representative of an employee organization and subject to
153 the provisions of chapter 68 of the general statutes. Persons transferred
154 to the Division of Administrative Hearings pursuant to this section
155 who are members of an employee organization at the time of their
156 transfer shall continue to be represented by such employee
157 organization. For the purposes of this subsection "employee
158 organization" has the same meaning as in section 5-270 of the general
159 statutes.

160 (c) The salaries, seniority and benefits of persons transferred to the
161 Division of Administrative Hearings pursuant to this section shall not
162 be reduced as a result of the transfer.

163 (d) No promotions governed by any existing and applicable
164 memorandum of understanding between the State Board of Labor
165 Relations and any collective bargaining representative for state
166 employees shall be denied, delayed, impaired or eliminated by the
167 implementation of sections 1 to 9, inclusive, of this act.

168 (e) (1) Persons transferred to the Division of Administrative
169 Hearings pursuant to this section who are members of a collective
170 bargaining unit at the time of their transfer shall (A) not lose the job
171 classification in which they are placed at the time of their transfer as a
172 result of the transfer, and (B) remain the beneficiaries of any existing
173 and applicable memorandum of understanding between the State
174 Board of Labor Relations and any collective bargaining representative
175 for state employees. The rights and obligations contained in any
176 memorandum of understanding that applies to staff attorneys shall

177 apply to administrative law adjudicators transferred to the Division of
178 Administrative Hearings and appointed by the Chief Administrative
179 Law Adjudicator.

180 (2) Persons transferred to the Division of Administrative Hearings
181 pursuant to this section who are not members of a collective
182 bargaining unit at the time of their transfer, and persons appointed by
183 the Chief Administrative Law Adjudicator, shall (A) have a job
184 classification commensurate with persons who are members of a
185 collective bargaining unit at the time of their transfer, and (B) be
186 subject to and become the beneficiaries of the terms of any existing and
187 applicable memorandum of understanding between the State Board of
188 Labor Relations and any collective bargaining representative for state
189 employees, including the rights and obligations contained in any
190 memorandum of understanding that applies to staff attorneys. Persons
191 transferred to the Division of Administrative Hearings pursuant to this
192 section who are not members of a collective bargaining unit at the time
193 of their transfer shall be assigned to the appropriate collective
194 bargaining unit as determined by the State Board of Labor Relations.

195 (f) Time served in other agencies by persons transferred to the
196 Division of Administrative Hearings pursuant to this section shall be
197 recognized as qualifying experience and time in the Division of
198 Administrative Hearings shall count as successful and satisfactory
199 performance for career progression under any existing and applicable
200 memorandum of understanding between the State Board of Labor
201 Relations and any collective bargaining representative for state
202 employees.

203 (g) An administrative law adjudicator, assistant or other employee
204 of the Division of Administrative Hearings who is removed,
205 suspended, demoted or subjected to disciplinary action or other
206 adverse employment action may appeal such action in accordance
207 with the applicable collective bargaining agreement.

208 Sec. 5. (NEW) (*Effective January 1, 2012*) (a) Each administrative law

209 adjudicator shall have been admitted to the practice of law in this state
210 for at least two years, except such requirement shall not apply to any
211 administrative law adjudicator transferred pursuant to section 4 of this
212 act. Each administrative law adjudicator shall be knowledgeable on the
213 subject of administrative law, competent, impartial, objective and free
214 from inappropriate influence.

215 (b) An administrative law adjudicator shall have the powers
216 granted to hearing officers and presiding officers pursuant to sections
217 1 to 9, inclusive, section 20 of this act and chapter 54 of the general
218 statutes.

219 (c) An administrative law adjudicator appointed to the Division of
220 Administrative Hearings may engage in the private practice of law as
221 long as (1) such administrative law adjudicator discloses the nature
222 and scope of his or her private law practice to the Chief Administrative
223 Law Adjudicator, and (2) the Chief Administrative Law Adjudicator
224 determines that no conflict of interest exists arising from such law
225 practice that would create an actual or perceived conflict of interest or
226 bias for the administrative law adjudicator to act or perform his or her
227 adjudicative duties assigned by the Chief Administrative Law
228 Adjudicator.

229 Sec. 6. (NEW) (*Effective January 1, 2012*) (a) All hearings in contested
230 cases conducted by the Division of Administrative Hearings shall be
231 conducted by an administrative law adjudicator assigned by the Chief
232 Administrative Law Adjudicator and shall be conducted in accordance
233 with sections 1 to 9, inclusive, and section 20 of this act and sections 4-
234 176e to 4-181a, inclusive, of the general statutes, as amended by this
235 act.

236 (b) Unless different time limits are provided by any provision of the
237 general statutes for contested cases before an agency, the time limits
238 provided in sections 4-176e to 4-181a, inclusive, of the general statutes,
239 as amended by this act, shall apply to all contested cases conducted by
240 the Division of Administrative Hearings.

241 Sec. 7. (NEW) (*Effective January 1, 2012*) An administrative law
242 adjudicator may conduct hearings and settlement negotiations held by
243 the Division of Administrative Hearings. If a contested case is not
244 resolved through settlement negotiations, either party may proceed to
245 a hearing. An administrative law adjudicator who attempts to settle a
246 matter may not thereafter be assigned to hear the matter. If a contested
247 case is resolved by stipulation, agreed settlement or consent order, the
248 administrative law adjudicator shall issue an order dismissing the
249 contested case. The order shall incorporate by reference such
250 stipulation, agreed settlement or consent order which shall be attached
251 to such order. The order shall further provide that no findings of fact
252 or conclusions of law have been made regarding any alleged violations
253 of the law. The order and stipulation, agreed settlement or consent
254 order may be enforceable by any party in the superior court for the
255 judicial district of New Britain. A party may petition said court for
256 enforcement of the order and stipulation, agreed settlement or consent
257 order and for appropriate temporary relief or a restraining order.

258 Sec. 8. (NEW) (*Effective January 1, 2012*) (a) Notwithstanding any
259 provision of the general statutes, and except as otherwise provided in
260 section 9 of this act, on and after January 1, 2012, the Division of
261 Administrative Hearings shall conduct hearings and render proposed
262 final decisions or, if authorized or required by law, final decisions in
263 contested cases:

264 (1) Pursuant to subdivision (3) of subsection (b) of section 4-61dd of
265 the general statutes, as amended by this act;

266 (2) Brought by or before the Department of Children and Families;

267 (3) Brought by or before the Department of Transportation;

268 (4) Brought by or before the Commission on Human Rights and
269 Opportunities;

270 (5) Brought by or before the Department of Motor Vehicles; and

271 (6) Brought by or before the Department of Consumer Protection.

272 (b) Any agency that is not required to refer contested cases to the
273 Division of Administrative Hearings pursuant to this section may,
274 with the consent of the Chief Administrative Law Adjudicator, refer
275 any contested case brought by or before such agency, to the Division of
276 Administrative Hearings for purposes of settlement or a full
277 adjudication of the contested case by an administrative law
278 adjudicator. If an agency requests a full adjudication of the contested
279 case, the agency shall specify whether the decision shall be a final
280 decision or a proposed final decision. The agency referring the
281 contested case shall incur the cost of transcripts if the Chief
282 Administrative Law Adjudicator requests transcription services for the
283 hearing. Upon issuance of the final decision or proposed final decision,
284 the Chief Administrative Law Adjudicator shall forward the record to
285 the referring agency.

286 (c) The powers, functions and duties of conducting hearings and
287 issuing decisions in contested cases enumerated in subsections (a) and
288 (b) of this section shall, on the date specified in subsection (a) of this
289 section or on the date of referral in accordance with subsection (b) of
290 this section, be transferred to the Division of Administrative Hearings
291 in accordance with the provisions of sections 4-38d, 4-38e and 4-39 of
292 the general statutes.

293 (d) The Division of Administrative Hearings shall render final
294 decisions for all cases described in subdivisions (1) and (2) of
295 subsection (a) of this section.

296 (e) If the administrative law adjudicator issues a proposed final
297 decision and the agency modifies the proposed final decision, the
298 agency shall identify such modifications and provide an explanation to
299 the parties of why the agency made each modification.

300 (f) If the administrative law adjudicator issues a proposed final
301 decision and the agency modifies a finding of fact of such adjudicator,

302 in any appeal of a final decision by a party to the Superior Court, the
303 Superior Court shall review the record. If the Superior Court finds that
304 the administrative law adjudicator's finding of fact is supported by
305 substantial evidence in the record, the court shall remand the matter to
306 the agency for entry of an order consistent with the court's judgment.

307 (g) Except as provided in subsection (h) of this section, any hearing
308 officer under contract with an agency to conduct hearings and issue
309 decisions in contested cases enumerated in subsections (a) and (b) of
310 this section shall, on and after the date specified in subsection (a) of
311 this section or on and after the date of referral in accordance with
312 subsection (b) of this section, continue to serve until all such cases
313 assigned to such hearing officer are completed, unless the Chief
314 Administrative Law Adjudicator determines that the case shall be
315 reassigned to an administrative law adjudicator.

316 (h) Any hearing officer under contract with the Department of
317 Motor Vehicles to conduct hearings and issue decisions in contested
318 cases shall, on and after January 1, 2012, serve under contract with the
319 Division of Administrative Hearings to conduct hearings brought by
320 or before the Department of Motor Vehicles. Any vacancies in such
321 positions shall be filled by persons appointed by the Chief
322 Administrative Law Adjudicator pursuant to chapter 67 of the general
323 statutes. Persons appointed by the Chief Administrative Law
324 Adjudicator to fill such vacancies shall (1) be in the classified service,
325 (2) be represented by the collective bargaining representative of an
326 employee organization, as defined in section 5-270 of the general
327 statutes, and (3) be subject to the provisions of chapter 68 of the
328 general statutes.

329 (i) Nothing in this section shall be construed to apply to the State
330 Board of Mediation and Arbitration or the State Board of Labor
331 Relations.

332 (j) Agencies whose contested cases are conducted by the Division of
333 Administrative Hearings, including, but not limited to, the

334 Department of Children and Families, shall execute any requisite
335 contract with the Division of Administrative Hearings that is necessary
336 to maintain and secure any federal or state funding or reimbursement.

337 Sec. 9. (NEW) (*Effective January 1, 2012*) No administrative law
338 adjudicator may be assigned by the Chief Administrative Law
339 Adjudicator to hear a contested case with respect to:

340 (1) Any hearing that is required by federal law to be conducted by a
341 specific agency or other hearing authority;

342 (2) Any matter where the head of the agency, or one or more of the
343 members of a multimember agency, presides at the hearing in a
344 contested case; or

345 (3) Any matter involving issues, claims or subject matter associated,
346 related or connected with the administrative law adjudicator's private
347 law practice where the assignment would create an actual or perceived
348 conflict of interest, perception of bias or lack of impartiality.

349 Sec. 10. Section 4-166 of the general statutes is repealed and the
350 following is substituted in lieu thereof (*Effective January 1, 2012*):

351 As used in this chapter and sections 1 to 9, inclusive, and section 20
352 of this act, unless the context otherwise requires:

353 (1) "Agency" means each state board, commission, department or
354 officer authorized by law to make regulations or to determine
355 contested cases, but does not include either house or any committee of
356 the General Assembly, the courts, the Council on Probate Judicial
357 Conduct, the Governor, Lieutenant Governor or Attorney General, or
358 town or regional boards of education, or automobile dispute
359 settlement panels established pursuant to section 42-181;

360 (2) "Contested case" means a proceeding, including but not
361 restricted to rate-making, price fixing and licensing, in which the legal
362 rights, duties or privileges of a party are required by state statute or

363 regulation to be determined by an agency or by the Division of
364 Administrative Hearings after an opportunity for hearing or in which a
365 hearing is in fact held, but does not include proceedings on a petition
366 for a declaratory ruling under section 4-176, as amended by this act,
367 hearings referred to in section 4-168 or hearings conducted by the
368 Department of Correction or the Board of Pardons and Paroles;

369 (3) "Final decision" means (A) the [agency] determination in a
370 contested case made pursuant to section 4-179, as amended by this act,
371 section 20 of this act and section 4-180, as amended by this act, (B) a
372 declaratory ruling issued by an agency pursuant to section 4-176, as
373 amended by this act, or (C) [an agency] a decision made after
374 reconsideration of a final decision. The term does not include a
375 preliminary or intermediate ruling or order, [of an agency,] or a ruling
376 [of an agency] granting or denying a petition for reconsideration;

377 (4) "Hearing officer" means an individual appointed by an agency to
378 conduct a hearing in an agency proceeding that is not conducted by an
379 administrative law adjudicator pursuant to section 8 of this act. Such
380 individual may be a staff employee of the agency;

381 (5) "Intervenor" means a person, other than a party, granted status
382 as an intervenor by an agency in accordance with the provisions of
383 subsection (d) of section 4-176 or subsection (b) of section 4-177a, as
384 amended by this act;

385 (6) "License" includes the whole or part of any agency permit,
386 certificate, approval, registration, charter or similar form of permission
387 required by law, but does not include a license required solely for
388 revenue purposes;

389 (7) "Licensing" includes the agency process respecting the grant,
390 denial, renewal, revocation, suspension, annulment, withdrawal or
391 amendment of a license;

392 (8) "Party" means each person (A) whose legal rights, duties or
393 privileges are required by statute to be determined by an agency

394 proceeding and who is named or admitted as a party, (B) who is
395 required by law to be a party in an agency proceeding, or (C) who is
396 granted status as a party under subsection (a) of section 4-177a, as
397 amended by this act;

398 (9) "Person" means any individual, partnership, corporation, limited
399 liability company, association, governmental subdivision, agency or
400 public or private organization of any character, but does not include
401 the agency conducting the proceeding;

402 (10) "Presiding officer" means the head of the agency presiding at a
403 hearing, the member of [an] a multimember agency, [or] the hearing
404 officer designated by the head of the agency to preside at [the] a
405 hearing or an administrative law adjudicator presiding at a hearing;

406 (11) "Proposed final decision" means a final decision proposed by an
407 agency or a presiding officer under section 4-179, as amended by this
408 act, or section 20 of this act;

409 (12) "Proposed regulation" means a proposal by an agency under
410 the provisions of section 4-168 for a new regulation or for a change in,
411 addition to or repeal of an existing regulation;

412 (13) "Regulation" means each agency statement of general
413 applicability, without regard to its designation, that implements,
414 interprets, or prescribes law or policy, or describes the organization,
415 procedure, or practice requirements of any agency. The term includes
416 the amendment or repeal of a prior regulation, but does not include
417 (A) statements concerning only the internal management of any
418 agency and not affecting private rights or procedures available to the
419 public, (B) declaratory rulings issued pursuant to section 4-176, as
420 amended by this act, or (C) intra-agency or interagency memoranda;

421 (14) "Regulation-making" means the process for formulation and
422 adoption of a regulation;

423 (15) "Administrative law adjudicator" has the same meaning as

424 provided in section 1 of this act; and

425 (16) "Head of the agency" means the individual or group of
426 individuals constituting the highest authority within an agency.

427 Sec. 11. Subsection (g) of section 4-176 of the general statutes is
428 repealed and the following is substituted in lieu thereof (*Effective*
429 *January 1, 2012*):

430 (g) If the agency conducts a hearing in a proceeding for a
431 declaratory ruling, the provisions of [subsection (b) of section 4-177c,]
432 section 4-178, as amended by this act, and section 4-179, as amended
433 by this act, shall apply to the hearing.

434 Sec. 12. Section 4-176e of the general statutes is repealed and the
435 following is substituted in lieu thereof (*Effective January 1, 2012*):

436 Except as otherwise required by the general statutes, a [hearing in
437 an agency proceeding may be held before (1)] contested case shall be
438 heard by (1) an administrative law adjudicator, (2) the head of the
439 agency, (3) one or more of the members of a multimember agency, or
440 (4) one or more hearing officers, provided no individual who has
441 personally carried out the function of an investigator in a contested
442 case may serve as a hearing officer in that case. [, or (2) one or more of
443 the members of the agency.]

444 Sec. 13. Section 4-177 of the general statutes is repealed and the
445 following is substituted in lieu thereof (*Effective January 1, 2012*):

446 (a) In a contested case, all parties shall be afforded an opportunity
447 for hearing after reasonable notice from the agency.

448 (b) The notice shall be in writing and shall include: (1) A statement
449 of the time, place [,] and nature of the hearing or, if the contested case
450 has been referred to the Division of Administrative Hearings, a
451 statement that the matter has been referred to the Division of
452 Administrative Hearings and that the time and place of the hearing

453 will be set by an administrative law adjudicator; (2) a statement of the
454 legal authority and jurisdiction under which the hearing is to be held;
455 (3) a reference to the particular sections of the statutes and regulations
456 involved; and (4) a short and plain statement of the matters asserted. If
457 the agency or party is unable to state the matters in detail at the time
458 the notice is served, the initial notice may be limited to a statement of
459 the issues involved. Thereafter, upon application, a more definite and
460 detailed statement shall be furnished.

461 (c) After an agency refers a contested case to the Division of
462 Administrative Hearings, the agency shall certify the official record in
463 such contested case to the Division of Administrative Hearings. The
464 Division of Administrative Hearings shall issue a notice in writing to
465 all parties that shall include a statement of the time, place and nature
466 of the hearing. Thereafter, a party shall file all documents that are to
467 become part of such record with the Division of Administrative
468 Hearings. The filing of such documents with the agency rather than
469 with the Division of Administrative Hearings shall not be a
470 jurisdictional defect and shall not be grounds for termination of the
471 proceeding, provided the administrative law adjudicator may assess
472 appropriate costs and sanctions against a party who misfiles such
473 documents on a showing of prejudice resulting from a wilful misfiling.
474 The Division of Administrative Hearings shall maintain the official
475 record of a contested case referred to said division.

476 ~~[(c)]~~ (d) Unless precluded by law, a contested case may be resolved
477 by stipulation, agreed settlement [.] or consent order or by the default
478 of a party.

479 ~~[(d)]~~ (e) The record in a contested case shall include: (1) Written
480 notices related to the case; (2) all petitions, pleadings, motions and
481 intermediate rulings; (3) evidence received or considered; (4) questions
482 and offers of proof, objections and rulings thereon; (5) the official
483 transcript, if any, of proceedings relating to the case, or, if not
484 transcribed, any recording or stenographic record of the proceedings;
485 (6) proposed final decisions and exceptions thereto; and (7) the final

486 decision.

487 ~~[(e)]~~ (f) Any recording or stenographic record of the proceedings
488 shall be transcribed on request of any party. The requesting party shall
489 pay the cost of such transcript, unless otherwise provided by law.
490 Nothing in this section shall relieve an agency of its responsibility
491 under section 4-183, as amended by this act, to transcribe the record for
492 an appeal.

493 Sec. 14. Section 4-177a of the general statutes is repealed and the
494 following is substituted in lieu thereof (*Effective January 1, 2012*):

495 (a) The presiding officer shall grant a person status as a party in a
496 contested case if [that] such officer finds that: (1) Such person has
497 submitted a written petition to the agency or presiding officer, and
498 mailed copies to all parties, at least five days before the date of
499 hearing; and (2) the petition states facts that demonstrate that the
500 petitioner's legal rights, duties or privileges shall be specifically
501 affected by [the agency's] a decision in the contested case.

502 (b) The presiding officer may grant any person status as an
503 intervenor in a contested case if [that] such officer finds that: (1) Such
504 person has submitted a written petition to the agency or presiding
505 officer, and mailed copies to all parties, at least five days before the
506 date of hearing; and (2) the petition states facts that demonstrate that
507 the petitioner's participation is in the interests of justice and will not
508 impair the orderly conduct of the proceedings.

509 (c) The five-day requirement in subsections (a) and (b) of this
510 section may be waived at any time before or after commencement of
511 the hearing by the presiding officer on a showing of good cause.

512 (d) If a petition is granted pursuant to subsection (b) of this section,
513 the presiding officer may limit the intervenor's participation to
514 designated issues in which the intervenor has a particular interest as
515 demonstrated by the petition and shall define the intervenor's rights to
516 inspect and copy records, physical evidence, papers and documents, to

517 introduce evidence [,] and to argue and cross-examine on those issues.
518 The presiding officer may further restrict the participation of an
519 intervenor in the proceedings, including the rights to inspect and copy
520 records, to introduce evidence and to cross-examine, so as to promote
521 the orderly conduct of the proceedings.

522 Sec. 15. Section 4-177b of the general statutes is repealed and the
523 following is substituted in lieu thereof (*Effective January 1, 2012*):

524 In a contested case, the presiding officer may administer oaths, take
525 testimony under oath relative to the case, subpoena witnesses and
526 require the production of records, physical evidence, papers and
527 documents to any hearing held in the case. If any person disobeys the
528 subpoena or, having appeared, refuses to answer any question put to
529 [him] such person or to produce any records, physical evidence,
530 papers and documents requested by the presiding officer, the
531 administrative law adjudicator or, if the hearing is conducted by the
532 agency, the agency, may apply to the superior court for the judicial
533 district of [Hartford] New Britain or for the judicial district in which
534 the person resides, or to any judge of that court if it is not in session,
535 setting forth the disobedience to the subpoena or refusal to answer or
536 produce, and the court or judge shall cite the person to appear before
537 the court or judge to show cause why the records, physical evidence,
538 papers and documents should not be produced or why a question put
539 to [him] such person should not be answered. Nothing in this section
540 shall be construed to limit the authority of the agency, the
541 administrative law adjudicator or any party as otherwise allowed by
542 law.

543 Sec. 16. Section 4-177c of the general statutes is repealed and the
544 following is substituted in lieu thereof (*Effective January 1, 2012*):

545 (a) In a contested case, each party and the agency, including an
546 agency conducting the proceeding, shall be afforded the opportunity
547 (1) to inspect and copy relevant and material records, papers and
548 documents not in the possession of the party or such agency, except as

549 otherwise provided by federal law or any other provision of the
550 general statutes, and (2) at a hearing, to respond, to cross-examine
551 other parties, intervenors [] and witnesses, and to present evidence
552 and argument on all issues involved.

553 (b) Persons not named as parties or intervenors may, in the
554 discretion of the presiding officer, be given an opportunity to present
555 oral or written statements. The presiding officer may require any such
556 statement to be given under oath or affirmation.

557 Sec. 17. Section 4-178 of the general statutes is repealed and the
558 following is substituted in lieu thereof (*Effective January 1, 2012*):

559 In contested cases: (1) Any oral or documentary evidence may be
560 received, but the [agency] presiding officer shall, as a matter of policy,
561 provide for the exclusion of irrelevant, immaterial or unduly
562 repetitious evidence; (2) [agencies] the presiding officer shall give
563 effect to the rules of privilege recognized by law; (3) when a hearing
564 will be expedited and the interests of the parties will not be prejudiced
565 substantially, any part of the evidence may be received in written
566 form; (4) documentary evidence may be received in the form of copies
567 or excerpts, if the original is not readily available, and upon request,
568 parties and the agency, including an agency conducting the
569 proceeding, shall be given an opportunity to compare the copy with
570 the original; (5) a party and [such] the agency, including an agency
571 conducting the proceeding, may conduct cross-examinations required
572 for a full and true disclosure of the facts; (6) notice may be taken of
573 judicially cognizable facts; [and of] (7) in a proceeding conducted by
574 the agency or in an agency review of a proposed final decision, the
575 agency may take notice of generally recognized technical or scientific
576 facts within the agency's specialized knowledge; [(7)] (8) parties shall
577 be notified in a timely manner of any material noticed, including any
578 agency memoranda or data, and they shall be afforded an opportunity
579 to contest the material so noticed; and [(8) the agency's] (9) in a
580 proceeding conducted by the agency or in an agency review of a
581 proposed final decision, the agency may use its experience, technical

582 competence [,] and specialized knowledge [may be used] in the
583 evaluation of the evidence.

584 Sec. 18. Section 4-178a of the general statutes is repealed and the
585 following is substituted in lieu thereof (*Effective January 1, 2012*):

586 If a hearing in a contested case or in a declaratory ruling proceeding
587 is held before a hearing officer or before less than a majority of the
588 members of the agency who are authorized by law to render a final
589 decision, a party, if permitted by regulation and before rendition of the
590 final decision, may request a review by a majority of the members of
591 the agency, of any preliminary, procedural or evidentiary ruling made
592 at the hearing. The majority of the members may make an appropriate
593 order, including the reconvening of the hearing. The provisions of this
594 section shall not apply to a hearing conducted by an administrative
595 law adjudicator.

596 Sec. 19. Section 4-179 of the general statutes is repealed and the
597 following is substituted in lieu thereof (*Effective January 1, 2012*):

598 (a) When, in an agency proceeding that is not conducted by an
599 administrative law adjudicator, a majority of the members of the
600 agency who are to render the final decision have not heard the matter
601 or read the record, the decision, if adverse to a party, shall not be
602 rendered until a proposed final decision is served upon the parties,
603 and an opportunity is afforded to each party adversely affected to file
604 exceptions and present briefs and oral argument to the members of the
605 agency who are to render the final decision.

606 (b) A proposed final decision made under this section shall be in
607 writing and [contain a statement of the reasons for the decision and a
608 finding of facts and conclusion of law on each issue of fact or law
609 necessary to the decision] shall comply with the requirements of
610 subsection (c) of section 4-180, as amended by this act.

611 (c) Except when authorized by law to render a final decision for an
612 agency, a hearing officer shall, after hearing a matter, make a proposed

613 final decision.

614 (d) The parties and the agency conducting the proceeding, by
615 written stipulation, may waive compliance with this section.

616 Sec. 20. (NEW) (*Effective January 1, 2012*) (a) A proposed final
617 decision rendered by an administrative law adjudicator shall be
618 delivered promptly to each party or the party's authorized
619 representative, and to the agency, personally or by United States mail,
620 certified or registered, postage prepaid. After such proposed final
621 decision is rendered, the record in the contested case shall be delivered
622 promptly to the agency.

623 (b) A proposed final decision rendered by an administrative law
624 adjudicator shall become a final decision of the agency unless the head
625 of the agency, not later than twenty-one days following the date the
626 proposed final decision is delivered or mailed to the agency, modifies
627 or rejects the proposed final decision, provided the head of the agency
628 may, before expiration of such time period and for good cause, certify
629 the extension of such time period for not more than an additional
630 twenty-one days. If the head of the agency modifies or rejects the
631 proposed final decision, the head of the agency shall state the reason
632 for the modification or rejection on the record. In reviewing a proposed
633 final decision rendered by an administrative law adjudicator, the head
634 of the agency may afford each party, including the agency, an
635 opportunity to present briefs and may afford each party, including the
636 agency, an opportunity to present oral argument.

637 (c) If, within the time period provided in subsection (b) of this
638 section, the head of the agency, in reviewing a proposed final decision
639 rendered by an administrative law adjudicator, determines that
640 additional evidence is necessary, the head of the agency shall refer the
641 matter to the Division of Administrative Hearings. The Chief
642 Administrative Law Adjudicator shall assign the administrative law
643 adjudicator who rendered such proposed final decision to take the
644 additional evidence unless such administrative law adjudicator is

645 unavailable. After taking the additional evidence, the administrative
646 law adjudicator shall, not later than thirty days following such referral,
647 prepare a proposed final decision as provided in this section based on
648 such additional evidence and the record of the prior hearing.

649 (d) A proposed final decision made under this section shall be in
650 writing and shall comply with the requirements of subsection (c) of
651 section 4-180 of the general statutes, as amended by this act.

652 Sec. 21. Section 4-180 of the general statutes is repealed and the
653 following is substituted in lieu thereof (*Effective January 1, 2012*):

654 (a) Each agency and administrative law adjudicator shall proceed
655 with reasonable dispatch to conclude any matter pending before [it]
656 such agency or administrative law adjudicator and, in all hearings of
657 contested cases conducted by the agency or the administrative law
658 adjudicator, shall render a final decision [within] not later than ninety
659 days following the close of evidence or the due date for the filing of
660 briefs, whichever is later. [, in such proceedings.]

661 (b) If, in any contested case, any agency or administrative law
662 adjudicator fails to comply with the provisions of subsection (a) of this
663 section, [in any contested case, any party thereto] any party to such
664 contested case may apply to the superior court for the judicial district
665 of [Hartford] New Britain for an order requiring the agency or
666 administrative law adjudicator to render a proposed final decision or a
667 final decision forthwith. The court, after hearing, shall issue an
668 appropriate order.

669 (c) A final decision in a contested case shall be in writing or, if there
670 is no proposed final decision, orally stated on the record. [and, if
671 adverse to a party,] A proposed final decision and a final decision in a
672 contested case shall include [the agency's] findings of fact and
673 conclusions of law necessary to [its] the decision and shall be made by
674 applying all pertinent provisions of law. Findings of fact shall be based
675 exclusively on the evidence in the record and on matters noticed. The

676 [agency shall state in] proposed final decision and the final decision
677 shall contain the name of each party and the most recent mailing
678 address, provided to the agency, of the party or [his] the party's
679 authorized representative. If the final decision is orally stated on the
680 record, each such name and mailing address shall be included in the
681 record.

682 (d) The final decision shall be delivered promptly to each party or
683 [his] the party's authorized representative and, in the case of a final
684 decision by an administrative law adjudicator authorized by law to
685 render such decision, to the agency, personally or by United States
686 mail, certified or registered, postage prepaid, return receipt requested.
687 [The] An agency rendering a final decision shall immediately transmit
688 a copy of such decision to the Division of Administrative Hearings. A
689 proposed final decision that becomes a final decision because of
690 agency inaction, as provided in subsection (b) of section 20 of this act,
691 shall become effective at the expiration of the time period specified in
692 said subsection or on a later date specified in such proposed final
693 decision. Any other final decision shall be effective when personally
694 delivered or mailed or on a later date specified [by the agency] in such
695 final decision. The date of delivery or mailing of a proposed final
696 decision and a final decision shall be endorsed on the front of the
697 decision or on a transmittal sheet included with the decision.

698 Sec. 22. Subsection (a) of section 4-181 of the general statutes is
699 repealed and the following is substituted in lieu thereof (*Effective*
700 *January 1, 2012*):

701 (a) Unless required for the disposition of ex parte matters
702 authorized by law, no hearing officer, administrative law adjudicator
703 or member of an agency who, in a contested case, is to render a final
704 decision or to make a proposed final decision shall communicate,
705 directly or indirectly, in connection with any issue of fact, with any
706 person or party, or, in connection with any issue of law, with any party
707 or the party's representative, without notice and opportunity for all
708 parties to participate.

709 Sec. 23. Section 4-181a of the general statutes is repealed and the
710 following is substituted in lieu thereof (*Effective January 1, 2012*):

711 (a) (1) Unless otherwise provided by law, a party or the agency in a
712 contested case may, [within] not later than fifteen days after the
713 personal delivery or mailing of the final decision or not later than
714 fifteen days after the date that a proposed final decision becomes a
715 final decision because of agency inaction, as provided in subsection (b)
716 of section 20 of this act, file with the [agency] authority that rendered
717 the final decision a petition for reconsideration of the decision on the
718 ground that: (A) An error of fact or law should be corrected; (B) new
719 evidence has been discovered which materially affects the merits of the
720 case and which for good reasons was not presented in the agency
721 proceeding; or (C) other good cause for reconsideration has been
722 shown. [Within] Not later than twenty-five days [of] after the filing of
723 the petition, [the agency] such authority shall decide whether to
724 reconsider the final decision. The failure of [the agency] such authority
725 to make [that] such determination within twenty-five days of such
726 filing shall constitute a denial of the petition.

727 (2) [Within] Not later than forty days of the personal delivery or
728 mailing of the final decision, the [agency] authority that rendered the
729 final decision, regardless of whether a petition for reconsideration has
730 been filed, may decide to reconsider the final decision.

731 (3) If the [agency] authority that rendered the final decision decides
732 to reconsider [a] the final decision, pursuant to subdivision (1) or (2) of
733 this subsection, [the agency] such authority shall proceed in a
734 reasonable time to conduct such additional proceedings as may be
735 necessary to render a decision modifying, affirming or reversing the
736 final decision, provided such decision made after reconsideration shall
737 be rendered not later than ninety days following the date on which
738 [the agency] such authority decides to reconsider the final decision. If
739 [the agency] such authority fails to render such decision made after
740 reconsideration within such ninety-day period, the original final
741 decision shall remain the final decision in the contested case for

742 purposes of any appeal under the provisions of section 4-183, as
743 amended by this act.

744 (4) Except as otherwise provided in subdivision (3) of this
745 subsection, [an agency] a decision made after reconsideration pursuant
746 to this subsection shall become the final decision in the contested case
747 in lieu of the original final decision for purposes of any appeal under
748 the provisions of section 4-183, as amended by this act, including, but
749 not limited to, an appeal of (A) any issue decided by the [agency]
750 authority that rendered the final decision in its original final decision
751 that was not the subject of any petition for reconsideration or [the
752 agency's] such authority's decision made after reconsideration, (B) any
753 issue as to which reconsideration was requested but not granted, and
754 (C) any issue that was reconsidered but not modified by [the agency]
755 such authority from the determination of such issue in the original
756 final decision.

757 (b) On a showing of changed conditions, the [agency] authority that
758 rendered the final decision may reverse or modify the final decision, at
759 any time, at the request of any person or on [the agency's] such
760 authority's own motion. The procedure set forth in this chapter for
761 contested cases shall be applicable to any proceeding in which such
762 reversal or modification of any final decision is to be considered. The
763 party or parties who were the subject of the original final decision, or
764 their successors, if known, and intervenors in the original contested
765 case, shall be notified of the proceeding and shall be given the
766 opportunity to participate in the proceeding. Any decision to reverse
767 or modify a final decision shall make provision for the rights or
768 privileges of any person who has been shown to have relied on such
769 final decision.

770 (c) The [agency] authority that rendered the final decision may,
771 without further proceedings, modify a final decision to correct any
772 clerical error. A person may appeal [that] such modification under the
773 provisions of section 4-183, as amended by this act, or, if an appeal is
774 pending when the modification is made, may amend the appeal.

775 (d) For the purposes of this section and section 4-183, as amended
776 by this act, in the case of a proposed final decision that becomes a final
777 decision because of agency inaction, as provided in subsection (b) of
778 section 20 of this act, the authority that rendered the final decision
779 shall be deemed to be the agency.

780 Sec. 24. Section 4-183 of the general statutes is repealed and the
781 following is substituted in lieu thereof (*Effective January 1, 2012*):

782 (a) A person who has exhausted all administrative remedies
783 available within the agency and who is aggrieved by a final decision
784 may appeal to the Superior Court as provided in this section. The filing
785 of a petition for reconsideration is not a prerequisite to the filing of
786 such an appeal.

787 (b) A person may appeal a preliminary, procedural or intermediate
788 agency action or ruling to the Superior Court if (1) it appears likely that
789 the person will otherwise qualify under this chapter to appeal from the
790 final agency action or ruling, and (2) postponement of the appeal
791 would result in an inadequate remedy.

792 (c) (1) [Within] Not later than forty-five days after mailing of the
793 final decision under section 4-180, as amended by this act, or, if there is
794 no mailing, [within] not later than forty-five days after personal
795 delivery of the final decision under said section, or (2) [within] not
796 later than forty-five days after the [agency] authority that rendered the
797 final decision denies a petition for reconsideration of the final decision
798 pursuant to subdivision (1) of subsection (a) of section 4-181a, as
799 amended by this act, or (3) [within] not later than forty-five days after
800 mailing of the final decision made after reconsideration pursuant to
801 subdivisions (3) and (4) of subsection (a) of section 4-181a, as amended
802 by this act, or, if there is no mailing, [within] not later than forty-five
803 days after personal delivery of the final decision made after
804 reconsideration pursuant to said subdivisions, or (4) [within] not later
805 than forty-five days after the expiration of the ninety-day period
806 required under subdivision (3) of subsection (a) of section 4-181a, as

807 amended by this act, if [the agency] such authority decides to
808 reconsider the final decision and fails to render a decision made after
809 reconsideration within such period, or (5) if a proposed final decision
810 becomes a final decision because of agency inaction, as provided in
811 subsection (b) of section 20 of this act, not later than forty-five days
812 after the decision becomes final, whichever is applicable and is later, a
813 person appealing as provided in this section shall serve a copy of the
814 appeal on the agency [that rendered the final decision] at its office or at
815 the office of the Attorney General in Hartford and file the appeal with
816 the clerk of the superior court for the judicial district of New Britain or
817 for the judicial district wherein the person appealing resides or, if
818 [that] such person is not a resident of this state, with the clerk of the
819 court for the judicial district of New Britain. An appeal of a final
820 decision under this section shall be taken within such applicable forty-
821 five-day period regardless of the effective date of the final decision.
822 Within [that] such time, the person appealing shall also serve a copy of
823 the appeal on each party listed in the final decision at the address
824 shown in the decision, provided failure to make such service within
825 forty-five days on parties other than the agency [that rendered the final
826 decision] shall not deprive the court of jurisdiction over the appeal.
827 Service of the appeal shall be made by United States mail, certified or
828 registered, postage prepaid, return receipt requested, without the use
829 of a state marshal or other officer, or by personal service by a proper
830 officer or indifferent person making service in the same manner as
831 complaints are served in ordinary civil actions. If service of the appeal
832 is made by mail, service shall be effective upon deposit of the appeal in
833 the mail.

834 (d) The person appealing, not later than fifteen days after filing the
835 appeal, shall file or cause to be filed with the clerk of the court an
836 affidavit, or the state marshal's return, stating the date and manner in
837 which a copy of the appeal was served on each party and on the
838 agency [that rendered the final decision,] and, if service was not made
839 on a party, the reason for failure to make service. If the failure to make
840 service causes prejudice to any party to the appeal or to the agency, the

841 court, after hearing, may dismiss the appeal.

842 (e) If service has not been made on a party, the court, on motion,
843 shall make such orders of notice of the appeal as are reasonably
844 calculated to notify each party not yet served.

845 (f) The filing of an appeal shall not, of itself, stay enforcement of [an
846 agency] a final decision. An application for a stay may be made to the
847 [agency] authority that rendered the final decision, to the court or to
848 both. Filing of an application with [the agency] such authority shall not
849 preclude action by the court. A stay, if granted, shall be on appropriate
850 terms.

851 (g) Within thirty days after the service of the appeal, or within such
852 further time as may be allowed by the court, the agency shall
853 transcribe any portion of the record that has not been transcribed and
854 transmit to the reviewing court the original or a certified copy of the
855 entire record of the proceeding appealed from, which shall include the
856 [agency's] findings of fact and conclusions of law, separately stated. By
857 stipulation of all parties to such appeal proceedings, the record may be
858 shortened. A party unreasonably refusing to stipulate to limit the
859 record may be taxed by the court for the additional costs. The court
860 may require or permit subsequent corrections or additions to the
861 record.

862 (h) If, before the date set for hearing on the merits of an appeal,
863 application is made to the court for leave to present additional
864 evidence, and it is shown to the satisfaction of the court that the
865 additional evidence is material and that there were good reasons for
866 failure to present it in the proceeding before the [agency] authority that
867 rendered the final decision, the court may order that the additional
868 evidence be taken before [the agency] such authority upon conditions
869 determined by the court. [The agency] Such authority may modify its
870 findings and decision by reason of the additional evidence and shall
871 file [that] such evidence and any modifications, new findings [,] or
872 decisions with the reviewing court.

873 (i) [The] Except as otherwise provided by law, the appeal shall be
874 conducted by the court without a jury and shall be confined to the
875 record. If alleged irregularities in procedure before the [agency]
876 presiding officer are not shown in the record or if facts necessary to
877 establish aggrievement are not shown in the record, proof limited
878 thereto may be taken in the court. The court, upon request, shall hear
879 oral argument and receive written briefs.

880 (j) [The] Unless a different standard of review is provided by law,
881 the court shall not substitute its judgment for that of the [agency]
882 authority that rendered the final decision as to the weight of the
883 evidence on questions of fact. The court shall affirm the final decision
884 [of the agency] unless the court finds that substantial rights of the
885 person appealing have been prejudiced because the administrative
886 findings, inferences, conclusions [,] or decisions are: (1) In violation of
887 constitutional or statutory provisions; (2) in excess of the statutory
888 authority of the agency; (3) made upon unlawful procedure; (4)
889 affected by other error of law; (5) clearly erroneous in view of the
890 reliable, probative [,] and substantial evidence on the whole record; or
891 (6) arbitrary or capricious or characterized by abuse of discretion or
892 clearly unwarranted exercise of discretion. If the court finds such
893 prejudice, [it] the court shall sustain the appeal and, if appropriate,
894 may render a judgment under subsection (k) of this section or remand
895 the case for further proceedings. For the purposes of this section, a
896 remand is a final judgment.

897 (k) If a particular agency action is required by law, the court, on
898 sustaining the appeal, may render a judgment that modifies the
899 [agency] final decision, orders the particular agency action, or orders
900 the agency to take such action as may be necessary to effect the
901 particular action.

902 (l) In all appeals taken under this section, costs may be taxed in
903 favor of the prevailing party in the same manner, and to the same
904 extent, that costs are allowed in judgments rendered by the Superior
905 Court. No costs shall be taxed against the state, except as provided in

906 section 4-184a.

907 (m) In any case in which a person appealing claims that [he] such
908 person cannot pay the costs of an appeal under this section, [he] such
909 person shall, within the time permitted for filing the appeal, file with
910 the clerk of the court to which the appeal is to be taken an application
911 for waiver of payment of such fees, costs and necessary expenses,
912 including the requirements of bond, if any. The application shall
913 conform to the requirements prescribed by rule of the judges of the
914 Superior Court. After such hearing as the court determines is
915 necessary, the court shall render its judgment on the application,
916 which judgment shall contain a statement of the facts the court has
917 found, with its conclusions thereon. The filing of the application for the
918 waiver shall toll the time limits for the filing of an appeal until such
919 time as a judgment on such application is rendered.

920 Sec. 25. Subsection (e) of section 1-82a of the general statutes is
921 repealed and the following is substituted in lieu thereof (*Effective*
922 *January 1, 2012*):

923 (e) The judge trial referee shall make public a finding of probable
924 cause not later than five business days after any such finding. At such
925 time the entire record of the investigation shall become public, except
926 that the Office of State Ethics may postpone examination or release of
927 such public records for a period not to exceed fourteen days for the
928 purpose of reaching a stipulation agreement pursuant to subsection
929 [(c)] (d) of section 4-177, as amended by this act. Any such stipulation
930 agreement or settlement shall be approved by a majority of those
931 members present and voting.

932 Sec. 26. Subsection (e) of section 1-93a of the general statutes is
933 repealed and the following is substituted in lieu thereof (*Effective*
934 *January 1, 2012*):

935 (e) The judge trial referee shall make public a finding of probable
936 cause not later than five business days after any such finding. At such

937 time, the entire record of the investigation shall become public, except
938 that the Office of State Ethics may postpone examination or release of
939 such public records for a period not to exceed fourteen days for the
940 purpose of reaching a stipulation agreement pursuant to subsection
941 [(c)] (d) of section 4-177, as amended by this act. Any stipulation
942 agreement or settlement entered into for a violation of this part shall be
943 approved by a majority of its members present and voting.

944 Sec. 27. Subsection (b) of section 4-61dd of the general statutes is
945 repealed and the following is substituted in lieu thereof (*Effective*
946 *January 1, 2012*):

947 (b) (1) No state officer or employee, as defined in section 4-141, no
948 quasi-public agency officer or employee, no officer or employee of a
949 large state contractor and no appointing authority shall take or
950 threaten to take any personnel action against any state or quasi-public
951 agency employee or any employee of a large state contractor in
952 retaliation for such employee's or contractor's disclosure of
953 information to (A) an employee of the Auditors of Public Accounts or
954 the Attorney General under the provisions of subsection (a) of this
955 section; (B) an employee of the state agency or quasi-public agency
956 where such state officer or employee is employed; (C) an employee of
957 a state agency pursuant to a mandated reporter statute or pursuant to
958 subsection (b) of section 17a-28; or (D) in the case of a large state
959 contractor, an employee of the contracting state agency concerning
960 information involving the large state contract.

961 (2) If a state or quasi-public agency employee or an employee of a
962 large state contractor alleges that a personnel action has been
963 threatened or taken in violation of subdivision (1) of this subsection,
964 the employee may notify the Attorney General, who shall investigate
965 pursuant to subsection (a) of this section.

966 (3) [(A)] Not later than thirty days after learning of the specific
967 incident giving rise to a claim that a personnel action has been
968 threatened or has occurred in violation of subdivision (1) of this

969 subsection, a state or quasi-public agency employee, an employee of a
970 large state contractor or the employee's attorney may file a complaint
971 concerning such personnel action with the Chief [Human Rights
972 Referee designated under section 46a-57] Administrative Law
973 Adjudicator. The Chief [Human Rights Referee] Administrative Law
974 Adjudicator shall assign the complaint to [a human rights referee
975 appointed under section 46a-57] an administrative law adjudicator,
976 who shall conduct a hearing and issue a decision concerning whether
977 the officer or employee taking or threatening to take the personnel
978 action violated any provision of this section. If the [human rights
979 referee] administrative law adjudicator finds such a violation, the
980 [referee] adjudicator may award the aggrieved employee reinstatement
981 to the employee's former position, back pay and reestablishment of
982 any employee benefits for which the employee would otherwise have
983 been eligible if such violation had not occurred, reasonable attorneys'
984 fees, and any other damages. For the purposes of this subsection, such
985 [human rights referee] administrative law adjudicator shall act as an
986 independent hearing officer. The decision of [a human rights referee]
987 an administrative law adjudicator under this subsection may be
988 appealed by any person who was a party at such hearing, in
989 accordance with the provisions of section 4-183, as amended by this
990 act.

991 [(B) The Chief Human Rights Referee shall adopt regulations, in
992 accordance with the provisions of chapter 54, establishing the
993 procedure for filing complaints and noticing and conducting hearings
994 under subparagraph (A) of this subdivision.]

995 (4) As an alternative to the provisions of subdivisions (2) and (3) of
996 this subsection: (A) A state or quasi-public agency employee who
997 alleges that a personnel action has been threatened or taken may file an
998 appeal not later than thirty days after learning of the specific incident
999 giving rise to such claim with the Employees' Review Board under
1000 section 5-202, or, in the case of a state or quasi-public agency employee
1001 covered by a collective bargaining contract, in accordance with the

1002 procedure provided by such contract; or (B) an employee of a large
1003 state contractor alleging that such action has been threatened or taken
1004 may, after exhausting all available administrative remedies, bring a
1005 civil action in accordance with the provisions of subsection (c) of
1006 section 31-51m.

1007 (5) In any proceeding under subdivision (2), (3) or (4) of this
1008 subsection concerning a personnel action taken or threatened against
1009 any state or quasi-public agency employee or any employee of a large
1010 state contractor, which personnel action occurs not later than one year
1011 after the employee first transmits facts and information concerning a
1012 matter under subsection (a) of this section to the Auditors of Public
1013 Accounts or the Attorney General, there shall be a rebuttable
1014 presumption that the personnel action is in retaliation for the action
1015 taken by the employee under subsection (a) of this section.

1016 (6) If a state officer or employee, as defined in section 4-141, a quasi-
1017 public agency officer or employee, an officer or employee of a large
1018 state contractor or an appointing authority takes or threatens to take
1019 any action to impede, fail to renew or cancel a contract between a state
1020 agency and a large state contractor, or between a large state contractor
1021 and its subcontractor, in retaliation for the disclosure of information
1022 pursuant to subsection (a) of this section to any agency listed in
1023 subdivision (1) of this subsection, such affected agency, contractor or
1024 subcontractor may, not later than ninety days after learning of such
1025 action, threat or failure to renew, bring a civil action in the superior
1026 court for the judicial district of Hartford to recover damages, attorney's
1027 fees and costs.

1028 Sec. 28. (*Effective October 1, 2011*) Not later than January 1, 2013, the
1029 Chief Administrative Law Adjudicator shall submit a report in
1030 accordance with the provisions of section 11-4a of the general statutes
1031 to the joint standing committee of the General Assembly having
1032 cognizance of matters relating to government administration. Such
1033 report shall include a feasibility analysis and implementation plan for
1034 the transfer of contested cases conducted by the Department of Social

1035 Services to the Division of Administrative Hearings.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	New section
Sec. 4	<i>October 1, 2011</i>	New section
Sec. 5	<i>January 1, 2012</i>	New section
Sec. 6	<i>January 1, 2012</i>	New section
Sec. 7	<i>January 1, 2012</i>	New section
Sec. 8	<i>January 1, 2012</i>	New section
Sec. 9	<i>January 1, 2012</i>	New section
Sec. 10	<i>January 1, 2012</i>	4-166
Sec. 11	<i>January 1, 2012</i>	4-176(g)
Sec. 12	<i>January 1, 2012</i>	4-176e
Sec. 13	<i>January 1, 2012</i>	4-177
Sec. 14	<i>January 1, 2012</i>	4-177a
Sec. 15	<i>January 1, 2012</i>	4-177b
Sec. 16	<i>January 1, 2012</i>	4-177c
Sec. 17	<i>January 1, 2012</i>	4-178
Sec. 18	<i>January 1, 2012</i>	4-178a
Sec. 19	<i>January 1, 2012</i>	4-179
Sec. 20	<i>January 1, 2012</i>	New section
Sec. 21	<i>January 1, 2012</i>	4-180
Sec. 22	<i>January 1, 2012</i>	4-181(a)
Sec. 23	<i>January 1, 2012</i>	4-181a
Sec. 24	<i>January 1, 2012</i>	4-183
Sec. 25	<i>January 1, 2012</i>	1-82a(e)
Sec. 26	<i>January 1, 2012</i>	1-93a(e)
Sec. 27	<i>January 1, 2012</i>	4-61dd(b)
Sec. 28	<i>October 1, 2011</i>	New section

GAE *Joint Favorable Subst.*